

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 92-048-C - ORDER NO. 92-459 ✓  
JUNE 12, 1992

IN RE: Application of US WATS, Inc. for )  
a Certificate of Public Convenience ) ORDER  
and Necessity to Operate as a Reseller ) GRANTING  
of Telecommunications Services within ) CERTIFICATE  
the State of South Carolina. )

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of US WATS, Inc. (WATS or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. WATS' Application was filed pursuant to S.C. Code Ann. §58-9-280 (1976) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed the Company to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas one time. The purpose of the Notice of Filing was to inform interested parties of the Company's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to

Intervene were filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate), and by Southern Bell Telephone & Telegraph Company (Southern Bell).

A hearing was commenced on May 26, 1992, at 11:00 a.m. in the Commission's Hearing Room. The Honorable Marjorie Amos-Frazier, Chairman, presided. Stephen Surasky, Esquire, and Andrea S. Miano, Esquire, represented US WATS, Inc. Carl F. McIntosh, Esquire, represented the Consumer Advocate. Caroline N. Watson, Esquire, represented Southern Bell; and F. David Butler, Staff Counsel, represented the Commission Staff.

At the beginning of the hearing, Southern Bell announced that it had entered into a stipulation with US WATS, Inc. The terms of said Stipulation are as follows:

- (1) Any grant of authority should clearly be for interLATA services only.
- (2) If any intraLATA calls are inadvertently completed by the carrier, the carrier should reimburse the LEC pursuant to the Commission's Order in PSC Docket No. 86-187-C. The definition of such inadvertent completion is as contained in such Order.
- (3) All operator services should be only for interLATA calls and any "0+" or "0-" intraLATA calls should be handed off to the LEC.
- (4) Nothing in 1, 2, or 3 above shall prohibit US WATS, Inc. from offering any services authorized for resale by tariffs of facility based carriers approved by the Commission.

After introducing the Stipulation into evidence as Hearing Exhibit 1, Southern Bell withdrew its participation in the case.

FINDINGS OF FACT

1. WATS is a corporation incorporated in the State of New York. WATS is authorized to do business in South Carolina. WATS is a switchless reseller which provides interstate, interexchange long distance telephone service. It offers intrastate interexchange telecommunications services on a resold basis by obtaining volume discounted services from facility-based carriers. WATS seeks a Certificate of Public Convenience and Necessity to operate as a reseller of interexchange services on an interLATA basis within the State of South Carolina. Application.

2. WATS presented the testimony of Donald P. Flynn, Vice President of the Company. Mr. Flynn testified that WATS' underlying carrier is AT&T and that the Company planned to resell AT&T's Software Defined Network (SDN). Mr. Flynn explained that the Company did not intend to carry intraLATA traffic. He testified WATS will provide 1+ services to its end-users. The Company markets its services to small and medium sized businesses.

3. Mr. Flynn testified that WATS does not intend to offer operator services.

4. Mr. Flynn testified that WATS would provide South Carolina consumers with a competitive long distance price and that by lowering the costs of telecommunications, smaller businesses would be able to maintain their communications costs at levels that are equivalent to very large long distance users.

5. WATS agreed to abide by all Commission regulations and orders regarding its rates and service.

CONCLUSIONS OF LAW

1. The Commission concludes that WATS has the experience, capability, and financial resources to provide the service described in its Application and by Mr. Flynn's testimony.

2. The Commission concludes that South Carolina telephone users and the State itself will benefit by the services intended to be provided by WATS. Accordingly, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to WATS to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Services, or any other services authorized for resale by tariffs approved by the Commission.

3. Should WATS complete any unauthorized intrastate intraLATA calls, the Company will be required to compensate the local exchange companies for the unauthorized calls it carries pursuant to Commission Order No. 86-793 in Docket No. 86-187-C.

4. The Commission adopts a rate design for WATS for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts WATS' proposed maximum rate tariffs.

5. WATS shall not adjust its rates below the approved

maximum level without notice to the Commission and to the public. WATS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of WATS subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1991).

6. WATS shall file its tariff and an accompanying price list in a loose leaf binder to reflect the Commission's findings within thirty (30) days of the date of this Order. WATS' provisions regarding advance payments and deposits if any, shall comply with 26 S.C. Regs. 103-621 (Supp. 1991).

7. WATS is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to WATS resale of services, an end user should be able to access another interexchange carrier or operator service provider if they so desire.

9. WATS shall resell the services of only those interexchange carriers or LEC's authorized to do business in South Carolina by this Commission. If WATS changes underlying carriers, it shall notify the Commission in writing.

10. WATS shall file surveillance reports on a calendar or

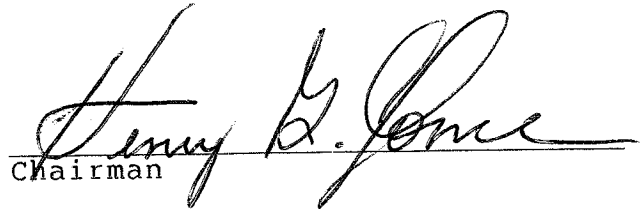
fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

VICE

Chairman



ATTEST:

  
Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR 12  
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

\* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION  
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,  
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER  
DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR  
ENDING \_\_\_\_\_.

\* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT  
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE  
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS  
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT  
(SEE #3 ABOVE).